

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

RSA No.3467 of 2016 (O&M)

Date of Decision.21.10.2016

Gurmail Kaur

.....Appellant

Vs

Kesar Singh

.....Respondent

Present: Mr. K.S. Dadwal, Advocate
for the appellant.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J. (ORAL)

C.M. No.9111-C of 2016

For the reasons stated in the application, delay of 124 days in filing the appeal is condoned.

Application is allowed.

RSA No.3467 of 2016

The appellant-plaintiff is aggrieved of the concurrent finding of fact whereby her suit claiming declaration of having ½ share in the estate of Mehar Singh @ Mehari and setting aside the judgment and decree dated 31.10.1987 executed by Mehar Singh @ Mehari in favour of Kesar Singh, has been dismissed by both the Courts below.

Mr. K.S. Dadwal, learned counsel appearing for the appellant-plaintiff submits that a fraud had been played upon by Mehari in executing the decree by which the property has been transferred in favour of the defendant, as he was not having a good health and sound state of mind. The Courts below have failed to notice the above mentioned facts. There is no limitation in claiming the inheritance and therefore, there is illegality and perversity, thus, urges this Court setting aside the judgments and decrees

under challenge by formulating the substantial questions of law as drawn in the memorandum of appeal.

I have heard learned counsel for the appellant, appraised the paper book and of the view the judgment and decree is dated 31.10.1987 and Mehari died in the year 1988. The suit has been filed in the year 2009. The ingredients of Order 6 Rule 4 CPC are conspicuously missing. It is very strange that married daughter at her own convenience and ease challenged the decree suffered by the father during his life time and never challenged the same till his last breath. The appellant-plaintiff instituted the instant suit mentioning her age as 58 years. No explanation has come forth as to why the suit was not filed with promptitude, had there been any truth or force in the averments.

For the foregoing reasons, I am of the view that the suit is wholly devoid of merit, much less, ingredients of Order 6 Rule 4 CPC are not satisfied. No ground for interference is made out, much less, no substantial question of law arises for consideration. The judgments and decrees under challenge are upheld and the regular second appeal is dismissed.

(AMIT RAWAL)
JUDGE

October 21, 2016
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No